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8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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11 )  
12 ) Case No. MEJ  
13 ) JOINT CASE MANAGEMENT  
14 ) STATEMENT AND [PROPOSED]  
15 ) CASE MANAGEMENT ORDER.  
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Plaintiff(s),  
vs.  
,  
Defendant(s).

----- )

16 The parties to the above-entitled action submit this Joint Case Management  
17 Statement and Proposed Case Management Order and request the Court to adopt it as the  
18 Case Management Order in this case, pursuant to Federal Rule of Civil Procedure 16 and  
19 Civil L.R.16-10(b).  
20

21 **JOINT CASE MANAGEMENT STATEMENT**

22 A. Description of the case: (The parties may attach additional pages to this statement.)

23 1. A brief description of the events underlying the action:  
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2. The principal factual issues which the parties dispute:

3. The principal legal issues which the parties dispute:

4. Other issues [*e.g. service of process, personal jurisdiction, subject matter jurisdiction or venue*] which remain unresolved for the reason stated below and the parties' proposed resolution:

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3 5. The parties who have not been served and the reasons for said lack of service:  
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10 6. The additional parties whom the below-specified parties intend to join and the  
11 intended  
12 time frame for such joinder:  
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15 B. Consent to Magistrate Judge for Trial:

16 1. The parties consent to assignment of this case to a United States Magistrate Judge  
17 for Trial: \_\_\_\_ Yes \_\_\_\_ No

18 The consent/request for reassignment form is attached to the back of this sample  
19 joint case management statement and order. The consent/request for reassignment  
20 form was received by Defendant with service of process of the complaint. **Each**  
21 **party shall file the signed form consenting to Magistrate Judge James' jurisdiction or**  
22 **requesting reassignment to a district court judge no later than the filing deadline for**  
23 **the joint case management statement assigned by the initial case management**  
24 **schedule.**  
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26 C. Alternative Dispute Resolution:

27 The parties have discussed and request the following court ADR process:

28 Nonbinding Arbitration, Early Neutral Evaluation, Mediation, or Early Settlement *[If*

1        *Nonbinding Arbitration, Early Neutral Evaluation or Mediation, state the expected or*  
2        *scheduled date for the ADR session]:*

3 \_\_\_\_\_  
4 \_\_\_\_\_  
5  
6                    **[PROPOSED] CASE MANAGEMENT ORDER**

7                    *[Counsel shall fill in the stipulated dates for the matters below]*

8                    Pursuant to Fed.R.Civ.P. 16, the Court conducted a case management conference on  
9        \_\_\_\_\_ and ORDERS as follows:

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11        A.     ADR Program:

- 12        1.     The parties are hereby referred to \_\_\_\_\_ *[ADR selection above]*.  
13        2.     The parties shall file their ADR certification by the date assigned by the initial case  
14                   management schedule received from the Clerk of the Court, pursuant to Civil L.R.  
15        16-8.

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17        B.     Jury or Court Trial:

- 18        1.     The parties shall designate in **both their pleadings and joint case management**  
19                   **statement** whether the trial requested is a jury trial or court trial *[designate one*  
20        *below]*:

21                   Plaintiff requests a jury trial                   \_\_\_\_\_

22                   Defendant requests a jury trial                   \_\_\_\_\_

23                   Plaintiff requests a court trial                   \_\_\_\_\_

24                   Defendant requests a court trial                   \_\_\_\_\_

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26        C.     Pretrial Motions:

- 27        1.     All pretrial motions shall be filed in accordance with Civil L.R. 7. A motion shall be  
28                   noticed pursuant to Civil L.R. 7-2 without calling the Court. Civil law and motion is

1 heard on Thursday mornings at 10:00 a.m.

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3 D. Discovery:

- 4 1. The parties shall abide by Judge James' standing order regarding discovery and  
5 dispute procedures.

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8 E. Disclosure of Expert Witnesses:

- 9 1. Any party wishing to present expert witness testimony with respect to a claim or  
10 defense shall serve on all other parties the name, address, qualifications, resume,  
11 and a written report which complies with Federal Rule of Civil Procedure  
12 26(a)(2)(B) on or before \_\_\_\_\_ (210 days before trial).
- 13 2. This disclosure must be made with respect to a person who is either (a) specifically  
14 retained or specially employed to provide expert testimony pursuant to Federal Rule  
15 of Evidence 702 or (b) a regular employee or agent or treating physician who may  
16 be called to provide expert opinion testimony.
- 17 3. **A party or counsel has a continuing duty to supplement the disclosure of expert**  
18 **witnesses when required under Federal Rule of Civil Procedure 26(e)(1).**

19  
20 F. Rebuttal Expert Witnesses:

- 21 1. If the testimony of the expert is intended solely to contradict or rebut opinion  
22 testimony on the same subject matter identified by another party, the party  
23 proffering a rebuttal expert shall make the disclosures required by Federal Rule of  
24 Civil Procedure 26(a)(2)(B), no later than \_\_\_\_\_ (200 days before the trial).

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26 G. Limitation on Testimony by Expert Witnesses:

- 27 1. Unless the parties enter into a written stipulation otherwise, upon timely objection,  
28 an expert witness shall be precluded from testifying about any actions or opinions

1 not disclosed prior to the expert's deposition. This is to ensure that all factual  
2 material upon which expert opinion may be based and all tests and reports are  
3 completed prior to the expert deposition.

4 2. Unless application is made prior to the close of expert discovery, each party is  
5 limited to calling only one expert witness in each discipline involved in the case.

6 3. Any party objecting to the admissibility of the testimony of person disclosed as an  
7 expert witness must file a written motion *in limine* to exclude the testimony no later  
8 than the deadline set in this order for filing motions *in limine*.

9  
10 H. Close of Discovery:

11 1. All discovery, including depositions of expert witnesses, must be completed by  
12 \_\_\_\_\_ (185 days before trial).

13 2. Pursuant to Federal Rule of Civil Procedure 16(b) and Civil L.R. 26-2, a discovery  
14 request or stipulation that calls for responses or depositions after the discovery cut-  
15 off date are not enforceable except by order of the Court and upon a showing of  
16 good cause.

17 3. Pursuant to Civil L.R. 26-2, no motions to compel discovery may be filed later than  
18 10 days after the discovery cut-off date.

19  
20 I. Dispositive Motions:

21 1. Pursuant to Civil L.R. 7-2, all dispositive motions shall be filed, served and noticed  
22 by \_\_\_\_\_ (155 days prior to trial). The parties shall file a joint statement  
23 of undisputed facts pursuant to Civil L.R. 56-2(b) when filing a motion for summary  
24 judgment or summary adjudication.

25 2. The Court shall hear dispositive motions on \_\_\_\_\_ ( 120 prior days to  
26 trial, during the Court's Thursday law and motion calendar) at 10:00 a.m. in  
27 Courtroom B, 15th Floor of the Federal Building, located at 450 Golden Gate  
28 Avenue, San Francisco, California.

1 J. Exchange and filing of Trial Papers:

2 1. By \_\_\_\_\_ (60 days before trial) lead counsel who will try the case shall  
3 meet and confer with respect to the preparation and content of the joint pretrial  
4 conference statement and shall exchange (but not file or lodge) the papers described  
5 in paragraph 2 below.

6 2. By \_\_\_\_\_ ( 45 days before trial) counsel shall file the papers  
7 described in Federal Rule of Civil Procedure 26(a)(3) and a joint pretrial  
8 conference statement including the following:

9 (A) Substance of the Action: A brief description of the substance of claims and  
10 defenses which remain to be decided.

11 (B) Relief Prayed: A detailed statement of all the relief claimed, particularly  
12 itemizing all elements of damages claimed as well as witnesses, documents or other  
13 evidentiary material to be presented concerning the amount of damages.

14 (C) Undisputed Facts: A plain and concise statement of all relevant facts not  
15 reasonably disputable, as well as which facts parties will stipulate for incorporation  
16 into the trial record without the necessity of supporting testimony or exhibits.

17 (D) Disputed Factual Issues: A plain and concise statement of all disputed factual  
18 issues which remain to be decided.

19 (E) Agreed Statement: A statement assessing whether all or part of the action may  
20 be presented upon an agreed statement of facts.

21 (F) Stipulations: A statement of stipulations requested or proposed for pretrial or  
22 trial purposes.

23 (G) Witness list: A list of all witnesses to be called for trial. The parties shall  
24 submit a page-length detailed summary of the substance of the proposed testimony  
25 of each witness, which shall also specify to which disputed fact the testimony  
26 relates and an estimate of the time required for direct and cross examination of each  
27 prospective witness.

28 (H) Exhibit list: A list of all exhibits to be offered at trial. The exhibit list shall list

each proposed exhibit by its number or alphabetical letter, description and sponsoring witness. All documents shall be authenticated prior to trial.

(I) Estimated Time of Trial: An estimate of the number of hours needed for the presentation of each party's case.

(J) Settlement: A statement summarizing the status of the parties' settlement negotiations.

**No party shall be permitted to offer any witness or exhibit in its case in chief that is not disclosed in its witness or exhibit list without leave of the Court for good cause shown.**

3. Motions *in limine*: Counsel are directed to meet and confer to resolve any evidentiary disputes prior to filing motions *in limine*. Any motions *in limine* shall be filed \_\_\_\_\_ (45 days prior to trial). Any Opposition to motions *in limine* shall be filed \_\_\_\_\_ (38 days prior to trial). These matters will be deemed submitted on the papers without oral argument, unless the Court orders otherwise.

4. Trial Briefs: Counsel shall file trial briefs setting forth the applicable legal standard, pursuant to Ninth Circuit authority, all significant disputed issues of law, including foreseeable procedural and evidentiary issues by \_\_\_\_\_ (30 days prior to trial).

5. Joint Proposed Voir Dire (Jury Trial Only): Counsel should submit a **joint** set of requested voir dire to be posed by the Court by \_\_\_\_\_ (30 days prior to trial). Any voir dire questions on which counsel cannot agree shall be submitted separately by \_\_\_\_\_ (30 days prior to trial). Counsel will be allowed brief follow-up voir dire after the Court's questioning.

6. Joint Proposed Jury Instructions (Jury Trial Only): Jury instructions § 1.01 through § 2.02 and § 3.01 through § 3.15 from the Manual of Model Civil Jury Instructions for the Ninth Circuit (1998 Edition) will be given absent objection. Counsel shall submit a **joint** set of additional proposed jury instructions by \_\_\_\_\_ (30



1 days prior to trial). . The instructions shall be ordered in a logical sequence,  
2 together with a table of contents. Any instruction on which counsel cannot agree  
3 shall be marked as “disputed,” and shall be included within the jointly submitted  
4 instructions and accompanying table of contents, in the place where the party  
5 proposing the instruction believes it should be given. Argument and authority for  
6 and against each disputed instruction shall be included as part of the joint  
7 submission, on separate sheets directly following the disputed instruction. The  
8 Court prefers that all jury instructions conform to the Manual of Model Civil Jury  
9 Instructions for the Ninth Circuit.

10 If possible, counsel shall deliver to the Courtroom Deputy a copy of their joint  
11 proposed jury instructions on a computer disk in WordPerfect format. The disk  
12 label shall include the name of the parties, the case number and be entitled  
13 “Proposed Jury Instructions.”

14 At the close of Defendant’s case in chief, the Court shall hear oral argument on the  
15 disputed jury instructions and will then render its rulings.

- 16 7. Proposed Verdict Forms, Joint or Separate (Jury Trial Only): Counsel shall submit  
17 any **joint** proposed verdict forms and shall submit their separate verdict forms by  
18 \_\_\_\_\_ (30 days prior to trial).

19 Whenever possible, counsel shall deliver to the Courtroom Deputy a copy of their  
20 joint proposed verdict forms on a computer disk in WordPerfect. The disk label  
21 shall include the name of the parties, the case number and be entitled “Proposed  
22 Verdict Forms.”

- 23 8. Proposed Findings of Fact and Conclusions of Law (Court Trial Only): Counsel  
24 shall submit **joint** proposed findings of facts by \_\_\_\_\_ (30 days prior to  
25 trial). Counsel shall submit separately a copy of their disputed findings of fact and  
26 conclusions of law by \_\_\_\_\_ (30 days prior to trial).

27 Whenever possible, counsel shall deliver to the Courtroom Deputy a copy of their  
28 joint proposed findings of fact on a computer disk in WordPerfect. The disk label

1 shall include the name of the parties, the case number and be entitled “Joint  
2 Proposed Findings of Facts.”  
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4 K. Pretrial Conference:

- 5 1. On \_\_\_\_\_ (30 days prior to trial, during the Court’s Thursday law and  
6 motion calendar is held on Thursdays) the Court shall hold a pretrial conference at  
7 10:00 a.m. in Courtroom B, 15th Floor of the Federal Building, located at 450  
8 Golden Gate Avenue, San Francisco, California. Lead counsel who will try the case  
9 must attend the pretrial conference. The purpose of the pretrial conference is for  
10 the Court to rule on any issues raised in the final pretrial conference statement,  
11 motions *in limine*, and to discuss the trial of the case.  
12

13 L. Final Pretrial Conference:

- 14 1. On \_\_\_\_\_ (4 days prior to trial, during the Court’s Thursday law and  
15 motion calendar) the Court shall hold a final pretrial conference to address any  
16 outstanding trial issues.  
17

18 M. Trial Date:

- 19 1. The trial shall commence [with jury selection taking place] on  
20 \_\_\_\_\_ (Trial schedule: Monday through Thursday, at 1:30 p.m.  
21 to 5:00 p.m.). The trial shall last \_\_\_\_\_ days.  
22 2. For any documents, including the deposition of a witness testifying at trial, which  
23 will be shown presented to a witness **but will not be admitted into evidence**, counsel  
24 shall bring the original plus three clean copies of the documents. The original  
25 document will be handed to the Court during testimony, and the clean copies of the  
26 document will be given to the witness during the examination and to opposing  
27 counsel.  
28 3. Counsel shall maintain their own exhibits during trial. Exhibits are to be premarked

1 with exhibit tags stapled to the upper lefthand corner. If a photo or chart is being  
2 used as an exhibit, the exhibit tag should be placed on the back side of the exhibit.  
3 **The Court will only admit premarked exhibits which were listed on the earlier filed**  
4 **exhibit list.**

5 Plaintiff shall mark the exhibits numerically; Defendant shall mark the  
6 exhibits alphabetically. The exhibit markers shall each contain the name and number  
7 of the case, the number or alphabetical letter of the exhibit, and blank spaces to  
8 accommodate the date admitted and the Deputy Clerk's initials.

- 9 4. On the day of trial, counsel shall bring the original premarked exhibits, a copy of the  
10 premarked exhibits for opposing counsel and two binders which contain a copy of  
11 each side's premarked exhibits for the Court. **The premarked exhibit binders are to**  
12 **be designated with label dividers.** The premarked exhibit binders will be given to the  
13 Courtroom Deputy on the morning of the trial.

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15 N. Jury Selection:

- 16 1. The Jury Commissioner will summon 20 to 25 prospective jurors. The Courtroom  
17 Deputy will select their names at random and seat them in the courtroom in the  
18 order in which their names are called.

19 Voir dire will be asked of sufficient venire persons that eight (or more for a  
20 lengthy trial) will remain after all peremptory challenges and an anticipated number  
21 of hardship dismissals and cause challenges have been made.

22 The Court will then take cause challenges, and discuss hardship claims from  
23 the individual jurors, at side bar. The Court will inform the attorneys which hardship  
24 claims and cause challenges will be granted, but will not announce those dismissals  
25 until the process is completed. Each attorney may then list in writing up to three  
26 peremptory challenges. The attorneys will review each other's lists and then submit  
27 them to the clerk.

28 Then, from the list of jurors in numerical order, the Court will strike the

persons with meritorious hardships, those excused for cause, and those challenged peremptorily. The Court will then call the first eight people in numerical sequence remaining. These people will be the jury. All jurors remaining at the close of the case will deliberate. There are no alternates.

O. Sanctions:

Failure to comply with this Order is cause for sanctions under Federal Rule of Civil Procedure 16(f).

P. Transcripts:

Counsel who wants to receive a daily transcript shall contact Robert Stuart, Supervisor Court Reporting Services, at (415) 522-2079, at least ten days in advance of the trial date.

If any video or tape recording equipment or demonstrative devices will be used, a signed order will need to be obtained at least ten days in advance of the trial date for the items to clear security.

Q. Questions:

All questions regarding these instructions should be directed to Brenda Tolbert, Courtroom Deputy Clerk to Judge James, at (415) 522-4708.

Date: \_\_\_\_\_ Plaintiff's Counsel \_\_\_\_\_  
Signature

Plaintiff's Counsel \_\_\_\_\_  
Printed Name

Date: \_\_\_\_\_ Defendant's Counsel \_\_\_\_\_  
Signature

Defendant's Counsel \_\_\_\_\_

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IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Maria-Elena James  
United States Magistrate Judge